THE "MINIMUM" PRINCIPLE IN THE TARIFF OF 1828 AND ITS RECENT REVIVAL.

The Tariff Act of 1828 was an important step in the growth of our tariff system. Not only is it of interest in its political aspects but also as a contribution to the theory of tariff taxation. For the first time in the history of our tariff legislation it established, with reference to a considerable group of goods, a series of duties graduated according to their value—the evident purpose of which was to retain something of the elasticity of ad valorem rates while gaining the immunity from undervaluations which goes with specific duties, and at the same time to obtain covertly a large increase of effective protection to the domestic manufacturer. This series of duties rests upon what is known as the "graduated minimums" of the woolen schedule of the act of that year; the principle of which was revived and largely extended in the Act of 1890, and the traces of which have not been entirely banished from the tariff of 1894. In view of this fact, it may be of value to trace here the origin and operation of these provisions of the earlier act, and to sketch briefly their later revival.

There are numerous provisions for a single minimum in the laws of the United States, both before and after the Act of 1828, the first instance being found in the Tariff Act of 1816. For the better protection of the domestic manufacturers of cheap cottons, and at the suggestion, apparently, of Francis C. Lowell, the American inventor of the power-loom, it was there provided that all imported cotton cloths of values less than twenty-five cents per square yard should be considered for customs purposes to be of the latter value, and the ad valorem duty charged accordingly. As the foreign value of cottons fell lower and lower, the effect of this

provision was to give an ever-increasing amount of protection to the domestic manufacturer. So satisfactory did protectionists find the operation of this provision, that its extension to other goods was soon advocated. In the unsuccessful tariff bill of 1820 there were provisions establishing minimum values for linens and a few other lines of goods. In the bill of 1824, as it came from the Committee on Manufactures, a minimum was established for woolens at eighty cents; but this was first lowered to forty cents, and then through the influence of Southern members, struck out altogether. In 1826 a committee of Massachusetts woolen manufacturers petitioned Congress, as a relief to the depression then prevailing, for "a minimum duty, which will not and can not be evaded, and which shall be apportioned upon the number of yards or quantity of cloth imported in every instance." *

Each of the above cases, it will be observed, concerns the single minimum only. In the response made by Congress to the above petition, however, we meet with a system of graded minimums such as was afterward embodied in the Act of 1828. All woolen cloths, it was provided, were to be divided into several classes according to their value, each of which was to have its own minimum. For goods worth forty cents and less per yard the minimum value for customs purposes was to be forty cents; those worth between forty cents and $2.50 were to be taxed as if worth $2.50; and goods worth from $2.50 to $4.00 were to be taxed at the latter value. But this bill, like that of 1820, was lost in the Senate by the casting vote of the Vice-President.

Undismayed by this failure, however, the woolen manufacturers, in conjunction with various other protectionists and certain politicians, called together the Harrisburg Convention of 1827. The proceedings of that body concern us here only in so far as they affected the development of the principle of minimums. The scheme of the bill of 1826–27, as regards

* *Niles' Register*, Vol. xxxi, p. 186.

woolens, was revived by that body, with additions and changes, so that the minimum points stood at fifty cents, $2.50, $4.00 and $6.00. In the bill reported in the next Congress, and which became the tariff law of 1828, this scheme was retained, but so modified as to rob it, in the eyes of the protectionists, of most of its virtues.

It was not without design that all goods between fifty cents and $2.50 in value had been included in one class. Almost all the woolens imported fell between these points, and so would have had to pay duty on the $2.50 valuation. To make the whole scheme futile,* the anti-protectionists in the House now broke up this class by the insertion of a new minimum point at $1.00,† while at the same time the rates of duty, which before had been ad valorem, in form, were translated into undisguised specific duties of equivalent weight. In the Senate the rates were changed back again to ad valorem duties of 40 per cent, with an increase to 45 per cent after one year; but despite all their efforts the protectionists found it impossible to procure the removal of the $1.00 minimum though this, as they said, was like a knife inserted between the joints of their armor.‡

In this form the bill, rightly called "the tariff of abominations" became law, and the system of graded minimum duties found its first, and for many years its last, embodiment in the legislation of the United States. Whatever may be said for the single minimum, a classification of minimums, such as that of 1828, now seems utterly indefensible. The duties thereby imposed were ad valorem in form, but were specific in fact; and they had the disadvantages

* For the political influence entering into the framing of the bill, see Taussig, "Tariff History," pp. 94-100.

† The $6.00 minimum point was removed, and all goods over $4.00 per square yard in value were to pay a true ad valorem of 45 per cent. In the bill as finally passed another point was inserted at thirty-three and one-third cents, with a specific duty of fourteen cents on all goods below this. Neither of these provisions is of any significance here.

‡ See 4 Statutes at Large, pp. 270-275, for the Act. As to cottons, the single minimum was continued, but was raised from twenty-five cents to thirty-five cents.

of both kinds, without the redeeming features of either. The temptations to fraudulent undervaluation which they offered proved stronger than under a system of single ad valorems; while, on the other hand, the system had all the inequality and lack of elasticity which go with specific duties.

On the thirtieth of June, 1828, the act went into effect. By the twenty-fifth of October* the cry began to be heard that extensive frauds were being perpetrated, and that the ends of the act were being defeated. As time went on, the outcry, on the one side, became louder and more wide-spread; while on the other the existence of such frauds was as strenuously denied. In his message to Congress of December 8, 1829, President Jackson takes up the matter, cites the numerous frauds which have been discovered, and the ineffectual attempts to bring the offenders to justice under existing laws, and calls upon Congress for such legislation as may be needed to remedy the evil.† In the House this portion of the message was referred to the Committee on Manufactures, which at once proceeded to make a thorough investigation.‡ Evidence of such frauds, apparently, was not hard to find. Accordingly in the early months of 1830, Mallary, of Vermont, chairman of the committee, reported to the House a bill which, after some discussion, was enacted under the title of "An act for the more effectual collection of the import duties."

From the speeches made in the course of this debate by the advocates of the bill, and from the reports of the proceedings of the New York Protectionist Convention of 1831, we get a very fair idea of the nature, extent and methods of these frauds, and can infer their animating cause. It is almost needless to say that the evasions of the revenue complained of concern the importations of woolens almost exclusively.

* See *Niles' Regis'ter* of that date. Vol. xxxv, p. 136.
† Senate Doc. No. 1 (21 Cong. 1st Sess.), p. 13.
‡ See House Doc. No. 54 (21 Cong. 1st Sess.).

Among woolens, too, it was in connection with the one item of broadcloths that the frauds were chiefly perpetrated;* and the reason for this is to be found doubtless in the peculiar applicability of the minimum system enacted to this kind of goods. The value of the great bulk of broadcloths then imported was such as barely to bring them within the operation of the $2.50 minimum. According to the value placed by law upon the pound sterling in the United States at this time,† broadcloths six-quarters of a yard wide costing 6*s.* 9*d.* the running yard, might legally be entered at the dollar minimum, and need pay but 67½ cents duty per yard linear.‡ If, however, they were worth more than 6*s.* 9*d.* (and under 16*s.* 10*d.*) no matter how small the appraised excess might be, they must be entered at the $2.50 minimum, and pay a duty of $1.68¾ per yard. The temptation, accordingly, to the merchant importing broadcloths costing seven, eight and nine shillings, was enormous. A slight undervaluation of his goods, coupled with a little elasticity of conscience in swearing to his invoices, would often save him hundreds and even thousands of dollars on one importation. The risk, as I shall presently explain, was small; the hope of gain was great; and hence the mass of evidence of frauds attempted and committed which meets us in the debates and proceedings before mentioned.§

The methods pursued in these evasions of the revenue were mainly three: by false measurements, by returning the average, for the actual, prices of goods in a mixed package, and by undervaluation.

The first has no features at all dependent upon the provisions of the Act of 1828, and consisted merely in entering

*See Committee Report of New York Convention in *Niles*, Vol. xli., Appendix p. 33.

† Namely $4.44: see Finance Report 1831, p. 6.

‡ These computations are at the 45 per cent rate, being obtained from Report of New York Convention of 1831, before cited.

§ See also Secretary McLane's letter to Congress of April 6, 1832 (House Exec. Doc. No. 199, 22 Cong., 1st Sess.), for particulars of prosecution for fraud from January 1, 1820, to September 1, 1831.

goods at, say, twelve yards the piece, which afterward sold at from fourteen to fifteen yards.*

The second was one to which, under a simple system of ad valorems, there could have been no inducement. In pursuing this method, the merchant in making up his package would place in it a few pieces of goods costing, say, fifty-five or sixty cents per square yard, and then complete the package with goods of the usual grade, costing something more than $1.00 per square yard, and legally chargeable with duty as worth $2.50. By averaging the prices of the lot, the whole would then be entered as having cost $1.00 the square yard, and be dutiable at that valuation.

Undervaluation, however, was the most obvious means by which to evade the obnoxious duties on these goods, and it was by the use of this method that the great majority of frauds of which we have record were perpetrated. † A few instances of such evasions may not be amiss. During the House debate to which I have before alluded, samples of broadcloth were exhibited which had been entered under the dollar minimum, at the custom house in New York, and were then being sold in the Boston market at $3.34 per square yard.‡ Another instance of undervaluation was found in the case of a merchant who had ordered 2000 pieces of goods from a British manufacturer of a particular description and of his own pattern; and who, finding himself undersold in the market, found, upon inquiring, that a second lot of identically the same goods had been consigned in the same vessel by the same manufacturer to an agent in this country, who had entered them at from five to eight shillings sterling lower than the first lot had been entered. § Yet another instance is

*See Davis in 6 Cong. Debates, p. 825.

†See Mallary in 6 Cong. Debates, p. 797. A common method was the use of two invoices; one containing the actual cost prices, which was used to sell by; the other, containing prices on the average about one-third less being used in entering the goods at the customs house.—See 6 Cong. Debates, pp. 798-9; 874.

‡6 Cong. Debates, p. 799.

§6 Cong. Debates, p. 874.

afforded by the testimony of Erastus Ellsworth, a New York merchant, given in the Protectionist Convention of 1831. A short time before, he stated, he had been called upon by the collector of that port to examine a consignment of twenty bales of goods invoiced at 6*s.* 8*d.*, or 6*s.* 10*d.* per running yard, in which undervaluation was suspected. Before he had examined ten pieces, he came to cloths worth eight, nine and ten shillings per yard, all of which had illegally been entered under the dollar minimum. The difference in duty on the invoice prices and the actual valuation was found to be "not less than four hundred dollars on every one of these bales." *

One of the chief reasons for the continued existence of such frauds was that they were undoubtedly countenanced to some extent by public opinion. In the chief commercial centres—especially at New York,—there was a pretty general opinion that the provisions of the law were too rigorous and severe; and as is always the case in such circumstances there was a general indisposition to blame men for trying to evade them. Except among those importers whose business was affected by these fraudulent importations, this was the opinion which "prevailed upon exchange;" we are also told that "the same mistaken current of public opinion entered and influenced the jury-box." † The collector at New York, according to the same speaker, "though nowise wanting in honesty, diligence or zeal, . . . had been so goaded and harassed by public and private attacks that he had been actually disabled from putting the laws in force." ‡

Aside from the influence of public opinion in this matter, there were certain features of the woolen trade as it was then

* *Niles' Register*, Vol. xli, p. 202.

† Ellsworth in New York Convention 1831. See *Niles*, Vol. xli, p. 202; also p. 190.

‡ The reference here is apparently to the attempt of the collector to exact a written promise from importers, on releasing goods, that if fraud should be found in the sample packages sent to the appraiser's office the rest of the importation also would immediately be re-delivered up for examination. This attempt, we are told, "made such an uproar that he was compelled to abandon it."—See 6 Cong. Debates, pp. 801-2.

conducted, and of the customs administration, which contributed materially to the ease and immunity with which frauds were committed.

As to the first, by far the greater proportion of all the woolen goods imported were brought into the one port of New York, where even then the volume of business was so vast as to make the scrutiny which could be given to such importation much less searching than at Boston or Philadelphia. * Seven-eighths of the goods, too, were imported on foreign account, † consigned to foreign agents in this country, "whose interests," said the protectionists, "were at home, and who regarded neither God nor man, provided [they] could only get [their] goods through the custom house." ‡ Moreover, these goods were mostly sold at auction, § immediately upon their release (upon bond) from the custom house, and before the examination of the sample packages sent to the appraiser's office had been completed, so that even though fraud were detected in the entry of these, they alone could be reached for the fine of one half the proper duty provided for such fraudulent entry, the other packages having already been scattered irretrievably by sales from the auction block. Various plans for checking the evil by means of federal regulation of auction sales were suggested and urged upon Congress; but the obstacles in the way of such action were too great, and nothing was done in the matter.

With the customs administration, however, the case was different. No objection to Congressional action in this field could be urged, provided the action contemplated was really in the line of a more efficient administration of existing law; and it was here, accordingly, that such measure of relief as

* Brown in Convention of 1831. See *Niles*, Vol. xli, p. 204.

† See *Niles*, Vol. xli, Appendix, p. 33.

‡ Ellsworth. See *Niles*, Vol. xli, p. 202.

§ The complaints of American merchants against the evils of the auction system were loud, and their call for a remedy persistent. See documents of the 21st and 22d Congresses for petitions for relief. Davis, of Massachusetts, in 6 Cong. Debates, p. 873, alludes to a petition signed by 20,000 citizens of the City of New York, setting forth the agency of auction sales in the perpetration of frauds upon the revenue.

could be afforded was sought and obtained. By an Act of March 1, 1823, it had been provided that in the appraisement of goods entered for importation, *at least* one package out of every invoice, or if the number of packages in such invoice be large, one out of every twenty packages of such importation must be sent to the appraiser's office for examination, the collector being empowered to release the rest on bond given, in the estimated amount of duties, on the lot. In the circular issued by Secretary Rush, September 9, 1828, collectors were instructed to be governed in their enforcement of the Act of 1828 by the provision of the Act just cited, examining a greater number of packages than there prescribed only at their discretion.*

At New York, as was to be expected, the minimum number only was examined. Despite the good-will evinced by the collector, too, the methods pursued in the appraisement of goods were seriously objected to by protectionists.† In making the selection of packages for appraisement, it was charged, those generally were chosen which were invoiced at a price making them liable to duty on the $2.50 minimum,—a small quantity only of which were imported, and on which there was little inducement to fraud; or if a package was selected which was invoiced so as to enter under the dollar minimum, the importers managed in some way to secure the selection of one fairly charged at 6*s.* 9*d.* Again, it was asserted that the importer's invoice was too largely depended upon in making the appraisement; and besides, that the standard of value of the appraiser's office for cloths of the dollar minimum class was "from 6*d.* to 2*s.* sterling per yard below the value of said cloths in the market from whence they came." Hence the amount by which these goods were found to be undervalued was seldom in excess of the 10 per cent margin allowed by law,‡ and

*See *Niles*, Vol. xxxv, p. 88; also Senate Doc. No. 34 (20 Cong., 2d Sess.).

† For this complaint, as voiced by the Committee on Frauds at the New York Convention of 1831, see *Niles*, Vol. xli, Appendix, pp. 33-35.

‡ By the Tariff Act of 1828: under the Act of 1823 the margin allowed was 25 per cent.

consequently the penalty for undervaluation was seldom exacted. In the third place, serious objection was made to an interpretation given to the Act of 1828, by Secretary Rush, by which the amount of protection afforded the woolen manufacture was considerably diminished, it was claimed, from what had been intended by Congress. In the act there was a provision that all goods subject to ad valorem duties should pay an additional rate of 10 or 20 per cent according as they came from this or the other side of the Cape of Good Hope. Rush apparently, being disposed to give the woolen manufacturer no more than the strictest interpretation of the law demanded, ruled that under the minimum provisions of the act, the duties laid were not in truth ad valorems, but specific duties; and hence that the additional 10 or 20 per cent was not to be collected on these classes of goods.* On wool, however, the additional duty was held to apply. Naturally there was much complaint at this ruling. When Ingham took office he reported the matter to Congress, intimating his opinion that the law might "admit of a different construction," but asking for a declaration from that body. Nothing, however, was done in the matter, and this ruling of Secretary Rush continued in force until the Act of 1828 was superseded, and the whole minimum system abolished.

The result of the outcry which was made, and the investigation by the committee of Congress, was, as I have said,

* It is curious, but I can nowhere find the letter embodying these instructions. Their date, as we learn from Ingham's Finance Report (1829) was October 15, 1828. Treasury instructions of far less importance are given by Niles of dates both immediately before and after this; but this is not given. Furthermore, in his communication to Congress early in 1829 (Senate Doc. No. 34, 20 Cong., 2d Sess.). Rush, as required by law, transmits the instructions he has issued to collectors concerning the interpretation of the Act of 1828, but makes no mention of those of October 15.—My chief sources of information concerning these are Finance Report (as above) where they are first referred to; report of the Committee of Manufactures of January 5, 1830 (House Report No. 54, 21st Cong., 1st Sess.); and the report of the New York Convention of 1831 (*Niles*, Vol. xli, Appendix p. 35). The Committee of Manufactures and the New York Convention condemn the interpretation given as erroneous and a perversion of the intention of Congress.

the passage of an act "for the more effectual collection of the import duties," which received the President's signature on May 28, 1830.* Aside from its provision for additional appraisers at New York, Boston and Philadelphia, and the prescription of a mode by which forfeitures were to be collected, the chief interest in this act centres in its provisions concerning average valuations and the detection and punishment of undervaluation. As to the former of these, it was prescribed that thenceforth, where goods of different values were packed in the same case or package, the value of the *best* article therein contained was to be taken as "the average value of the whole," and the duty levied accordingly.† With reference to appraisements, etc., the minimum number of one package per invoice, or one package in each twenty, was continued. In addition, however, it was provided, (1) that no goods should be released prior to the above appraisement save on bonds in *double* their estimated value, and conditioned on their return in ten days after the appraiser's report (if so ordered), with a prohibition of opening or unpacking save on the written permission of the collector and in the presence of an inspector; (2) that if the collector thought the appraiser's valuation too low, he might order a re-appraisement either by the chief appraisers or by three merchants (citizens of the United States) who should be designated by him for that purpose; (3) that in case the package appraised be found incorrectly invoiced, all the goods of that same entry were then to be inspected, and (4) that if it be found that such package or invoice had been "made up with *intent*,‡ by a false valuation, or extension or otherwise, to evade or defraud the revenue," the same should be forfeited—the former penalty of a fine of one-half the duty being repealed.

* See 4 Statutes at Large, p. 409.

† In the execution of this act it was found necessary to modify this provision so far as to allow parcels of small wares (laces, etc.), separately designated in the invoice, to be considered as separate packages, though packed in the same case with other goods.—See pp. 5-6 of Ingham's report of December 15, 1830. (Senate Doc. No. 6, 21 Cong., 2d Sess.)

‡ The italics are mine.

Stringent as these provisions would seem to be, it was soon found that they were "the means of developing the extent of the evil, rather than of arresting it."* This was, apparently, no fault of the collector at New York. Public sentiment against the enforcement of the tariff having relaxed somewhat, he consented some time in 1831 to have an examination made of *all* packages invoiced instead of the minimum number allowed by law, with the result that in six months 2400 pieces of broadcloth were found undercharged by false invoices, and frauds upon the revenue to the extent of $48,000 were thus prevented.† But the use of the word "intent," in the law, and the judicial interpretation put thereon were such as almost wholly to defeat the ends of the act. In the prosecution of some of the cases brought to light as above, the court had ruled that evidence might be introduced as to the *cost* of the goods at the place whence imported, and that if it be shown that the cost was as invoiced, intent to defraud would be held to be done away with.‡ Under this decision it was practically impossible to secure a conviction. Merchants might either buy goods of various grades getting an invoice (supported by affidavits) at one average price for the lot such as to bring the entry below the dollar minimum; or else for a small sum secure the perjured affidavit of a British clerk that the cost of the goods was as invoiced: either method was perfectly feasible and attended with no personal danger. The result was, that of the 2400 pieces of goods instanced above as undervalued, practically none were forfeited; and the importers, in the absence of any other penalty for undervaluation, were allowed to take their goods away upon the simple payment of the duties they would have had to pay had the goods been honestly entered in the first place. This construction of the law

* Report of New York Convention, 1831. See *Niles*, Vol. xli, Appendix p. 33.

† Ellsworth in New York Convention. See *Niles*, Vol. xli, p. 202; p. 190. During the first year of the operation of the law of 1830, but few cases of fraud were unearthed: this was while the old practice of examining but one of twenty packages was still in use. *Ibid*, Appendix, p. 33.

‡ Brown in New York Convention. See *Niles*, Vol. xli, p. 203.

actually placed a premium upon fraud; for if it succeeded, the importer was so much the better off, if it failed he paid nothing beyond what an honest man would have had to pay in the first place. A home valuation, the protectionists felt, would remedy the evil; but this they dared not recommend because it would increase duties to prohibition, and though this, they thought, would not be a bad thing, yet the recommendation of such would "involve Congress in a discussion of the whole tariff system," which, in the existing condition of things, they were desirious of avoiding.* Accordingly the only remedy which the New York Convention of 1831 could bring itself to recommend was that "the present law . . . be enforced:" *i. e.*, enforced in the interpretation in which they deemed it to have been conceived.

The root of the evil was held by the protectionists to lie in the one dollar minimum,† the introduction of which had been so strenuously resisted when the Act of 1828 was framed. In the importation of cottons, where there was but one minimum (namely, thirty-five cents), there were no such frauds as in woolens: but had various additional minimum valuations been established in the cotton schedule—say at ten, twenty and thirty cents—it was held that there would have been the same attempts at fraud as in woolens. On the other hand, the whole minimum system was blamed, and this not only by Southerners and anti-protectionists. Secretary McLane in his report of April 27, 1832,‡ said: "The system of minimums is regarded as imposing an unnecessary and extravagant rate of duty, and as encouraging the commission of frauds difficult if not impossible to prevent." John Quincy Adams also favored the abolition of the system,§ because of the injustice of its operation;‖ its encouragement of

* See *Niles*, Vol. xli, pp. 203-4.

† *Ibid.*, p. 204.

‡ House Doc. No. 222 (22 Cong., 1st Sess.), p. 4.

§ House Report No. 481 (22 Cong., 1st Sess.), p. 26.

‖ Cambreling had objected strongly to the Act of 1828 on this account. See his statement (House Doc. No. 143, 20 Cong., 1st Sess.) showing the operation of the system on rich and poor. This, however, has reference to the bill before the introduction of the dollar minimum, which remedied this defect somewhat.

frauds; and because as he said, "there is . . . in the system of graduated minimums an appearance of indirection little consonant with the frank open-heartedness of republican institutions: it has the air as if the legislators of the nation, in taxing their constituents, were unwilling to let them know the real amount of that taxation." To these objections Gallatin* added a fourth, namely, the cost of collection, which under the operation of this act had increased from 3.38 per cent of the revenue to 4.31 per cent.

Niles, as well as others of the ultra-protectionists, clung obstinately to the system of minimums.† The frauds committed under the Act of 1828, he maintained, were but types of what would exist without minimums. "If the appraisers can not justly determine four or five qualities of cloths," said he, "we know not how they are to settle the value of fifty qualities." Their efforts, however, were in vain. The evil effects of the system—at least as embodied in the Act of 1828—were too manifest. The concurrent testimony of men so wide apart politically as were McLane, Adams and Gallatin, was too convincing. Accordingly, in the Tariff Act of 1832—passed, it is true, under a certain pressure of political necessity—the protectionists themselves swept away the whole system, and set up in its place a uniform rate upon woolens of 50 per cent ad valorem. The system of graduated minimums had been tried and had proved a failure.

For many years after the repeal of the tariff act of 1828 there was nothing in our tariff legislation approaching the method of laying duties embodied in these sections of that act. The later duties were either simple specific or simple ad valorem rates, with occasionally a combination of the two, or a provision for what amounted to a single minimum. We hear nothing of anything similar to graduated minimums until after the war. In the process of

* Memorial Free Trade Convention of 1832.

† See *Niles' Register*, Vol. xlii, p. 269.

maintaining and raising duties after that epoch, however, single minimums became more common, and as the tariff system became more complex, they had a tendency to develop into classifications resembling that of 1828. At last in the tariff act of 1883, in the provision concerning cotton threads and yarns, we meet with a well-defined system of specific duties graded on values which in essence is identical with the system of woolen minimums of the "tariff of abominations," though lacking in some of the more objectionable features of the latter.*

It is not, however, until we reach the tariff of 1890 that we find any considerable revival of this system. In that act not only do we meet with the application of what is virtually the same principle as the graduated minimums of 1828, though the duties are here specific and not ad valorem in form; but we find that principle extended to many lines of goods other than woolens. Cotton stockings, velvets and plushes, boiler and plate iron, penknives, table cutlery and carving-knives, shot-guns and pistols, are all subjected in that act to a like treatment. In each of these cases classes are established based on the value of the goods, and on all goods of the same class the same specific duty is then levied.† For example, in that act penknives are arranged in four classes: (1) Those worth not more than 50 cents per dozen; (2) those worth between 50 cents and $1.50; (3) those worth between $1.50 and $3.00; and (4) those worth over $3.00; the specific duties being 12 cents, 50 cents, $1.00 and $2.00 per dozen upon each class respectively.

* In the Act of 1883, cotton threads and yarns are divided into eight classes, according to value: (1) Those worth not over 25 cents per pound; (2) those worth from 25 cents to 40 cents; (3) those from 40 cents to 50 cents; (4) those from 50 cents to 60 cents; (5) those from 60 cents to 70 cents; (6) those from 70 cents to 80 cents; (7) those from 80 cents to $1.00; and (8) those worth over $1.00 per pound; the duties being 10 cents per pound; 15 cents, 20 cents, 25 cents, 33 cents, 38 cents, 48 cents, and 50 per cent ad valorem, on the classes respectively.—22 Statutes at Large, p. 506.

† The matter is complicated somewhat in most cases by a provision for a genuine ad valorem duty in addition to this classified specific duty; but the principle is not affected thereby.

The use of this sort of duties was much decreased in the Wilson bill of last year, though not entirely abandoned, as witness the section concerning cotton yarns and thread. In the Tariff Act of 1894, however, as it was finally passed, the system of classified specifics is restored in the case of penknives and a few other lines of goods, though that law still falls far short of its immediate predecessor in this particular.

As regards the operation of the provisions in question in these later laws, it is difficult as yet to get any definite information. Since the time when these duties were first tried so unsuccessfully, great changes have taken place, not only in the machinery and methods of the customs administration, but in the circumstances of the commercial world as well. In the language of Secretary Carlisle,* "the difficulties of administration have now been much diminished by our increased facilities for ascertaining market values in other countries, and by the improved organization of our customs service. The markets of the world have been brought so near to each other by the use of steam and electricity that, as to all staple articles especially, it is not now much more difficult to find their cost or value abroad than at home." The new Customs Administration Act of June 10, 1890, with its stringent penalties for false invoices and false entry, its more rigorous provisions as to fines and forfeitures for undervaluation,† and its newly created board of general appraisers, has also done much to remedy the condition of things of which in 1886 Secretary Manning complained in his famous report on the collection of duties.

Nevertheless, in spite of the changes which time has brought, this system of duties necessarily furnishes a peculiar

* Finance Report 1893, p. lxxix.

† Where goods are found to be undervalued more than 10 per cent, an additional duty of 2 per cent is assessed "for each 1 per centum that such appraised value exceeds the value declared in the entry;" if undervalued more than 10 per cent, this may be regarded as "presumptive evidence of fraud," the goods seized and forfeiture proceedings begun, the burden being of proof thrown upon the claimant. See section 7 of that Act.

stimulus to fraud. The evidences of that fraud are not as yet accessible to the student, but this is no argument that it does not exist. It is impossible now, even more than sixty years ago, to examine every package of goods imported. The temptation to fraud still exists in the large reduction of duty which even a slight undervaluation may effect under this system, and certainly commercial morality is no stronger now than it was then. In fine, then, it appears that we may safely say of the subject, with Secretary Carlisle, in the report above quoted: "It would seem difficult to devise a scheme better calculated to encourage frauds upon the revenue, and make their prevention or detection next to impossible."

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